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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,367	02/12/2004	Duard W. Enoch III	E001 100041	7905
32662	7590	01/11/2005	EXAMINER	
FELIX L. FISCHER, ATTORNEY AT LAW 1607 MISSION DRIVE SUITE 204 SOLVANG, CA 93463			SPISICH, MARK	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application N .

10/779,367

Applicant(s)

ENOCH ET AL.

Examiner

Mark Spisich

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 10-13, 17 and 18 is/are rejected.
- 7) ☒ Claim(s) 6, 8, 9, and 14-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "96" has been used to designate both the groove and the drive spool in figure 4b. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: #152 (as per page 10, line 9). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified

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and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

3. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered **claims 19 and 20 been renumbered as claims 18 and 19** (as there was no claim 18, the claims jumped from claim 17 to 19). Any amendment submitted by applicant should take this into consideration.

### ***Claim Rejections - 35 USC §***

### ***103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5,7 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 3,630,324 in view of Hanson (USP 6.634.052). '324 discloses a surface (9) cleaning device comprising a cleaning component (15) for placement against a first surface which cleaning device includes a magnetic element (7) carried therein and a cleaning means (8) and an actuating component (1) for placement adjacent the cleaning component on a second surface of the surface (9) and which

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actuating component includes an actuator (15) with a complementary magnetic element (7), a motor (2) operatively attached to the actuator for inducing motion thereof (as well as the cleaning component) and a means for powering the motor in the form of a battery (5). '324 discloses the invention substantially as claimed with the exception of the use of plural magnetic elements. The patent to Hanson discloses a device having similar utility and which includes a cleaning component (12) including at least one (plural magnets thus implied as an alternative) magnet. It would have been obvious to one of ordinary skill to have provided plural magnets in the device of '324 to provide an increased holding force. It has further been held that mere duplication of the essentially working parts of a device involves only routine skill in the art. **St. Regis Paper Co. v. Bemis Co., 193 USPQ 8.** The use of a foam (claim 2) cleaning component (with embedded magnets) is taught by Hanson (column 2, lines 59-67). It would have been obvious to one of ordinary skill to have modified the cleaning component of '324 as such so that it could conform to curves in the surface being cleaned. The provision of plural magnetic elements would provide magnets arranged about an axis to the extent required by claim 2. With regard to claim 3, one of ordinary skill would readily interchange any cleaning surface recognized as being suitable for cleaning glass or tanks. The patent to Hanson also discloses that the cleaning means may be in the form of Velcro hook and loop material (column 2, line 2). Such a material could be classified as either an abrasive surface (claim 11) or a brush (claim 3). '324 discloses a DC motor (2), a battery (5) and a switch (3) as in claim 4. The switch of claim 5 is known and the use of any known switch would be obvious to one of ordinary skill based on

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cost/availability. '324 discloses an axle (6) which produces a rotary cleaning motion (claim 7). Reversible motors are well known in the cleaning art and the use of such (claim 10) would be obvious to one of ordinary skill to suit the user's individual preference. The actuating component of '324 also includes cleaning means (8) (see figs 1-2) (claim 12).

6. Claims 1,7,10,12,13,17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 9-224881. '881 discloses a surface (50) cleaning device comprising a cleaning component including a magnet element (8) and a cleaning means (17) and a actuating component including a actuator with a magnet element (8), a motor (M) for (rotationally) driving the actuator and a means for powering the motor. '881 discloses the invention substantially as claimed with the exception of plural magnetic elements. It has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. **St. Regis Paper Co. v. Bemis Co., 193 USPQ 8**. With regard to claim 7, the motor includes an axle (40) which rotates a sic shaped actuator. Reversing switches (claim 10) for motors in cleaning devices are known in the art and that one of ordinary skill would deem it obvious to utilize any known switch to suit the particular user's preference. Each of the cleaning and actuating components include a cleaning means (17) (claim 12). Member (2) (which houses the rotary magnet 8) reads on the recited sleeve of claim 13. The cord (41) would be the orienting means (claim 17) and pretty much any element (such as 11) not previously identified could read on the "sand guard" insofar as this is defined by claim 18.

***Allowable Subject Matter***

7. Claims 6,8,9 and 14-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art fails to teach or suggest, in combination with the structure of claim 1, a pinion engaging teeth on the disc (claim 6), an eccentric drive producing a reciprocating motion (claim 8), the sleeve including a magnetic sphere (claim 14) and the corner magnets (claim 15).

8. Claim 19 is allowed. Note that claim 19 also includes a recitation of some of the elements mentioned directly above.

***Conclusion***


9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited patents are pertinent to (driven) devices for cleaning opposed surfaces of a surface and which utilize magnetic attraction.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (5:30-3:00), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Spisich  
Primary Examiner  
Art Unit 1744

MS